

Amendment in response to Office Action
dated November 12, 2009

225300-86427

REMARKS

Claims 20-21, 23, 25-35, 37 and 40-42 were pending with claims 1-19, 22, 24, 36 and 38-39 being previously cancelled. In this paper, claims 20 and 34-35 have been amended and claims 33 and 37 have been cancelled. No claims have been added. Accordingly, upon entry of this paper, claims 20-21, 23, 25-32, 34-35 and 40-42 will be pending. Favorable reconsideration is respectfully requested in light of the foregoing amendments and the following remarks.

I. Change in Attorney Docket Number

Since the last paper filed by the Applicant, the Attorney Docket Number for the present matter has changed. The former docket number of 209546-86427 is now 225300-86427. In order to facilitate accurate tracking and docketing of the present matter by Applicant's representative, it is hereby requested that the Office note the above-identified change in the record. Applicant graciously thanks the Office for considering this request.

II. Consideration of All of the Currently-Pending Claims

Prior to discussing the merits of the presently-asserted rejections of the claimed invention, Applicant draws the following to the Office's attention. In Applicant's July 1, 2009 Non-Final amendment, Applicant added claims 40-42 (with claim 41 being in independent form). In the present Final Action, Applicant notes that previously-added dependent claim 40 has been acknowledged as being pending on the *Office Action Summary* page while also being positively-rejected at pages 2-3 of the present Final Action. However, previously-added claims 41-42 are not acknowledged as being pending on the *Office Action Summary* page nor is Applicant able to locate a positive rejection of previously-added claims 41-42 at any pages of the present Action.

Because claims 41-42 have not been acknowledged or treated on the merits in the present Final Action, the record heretofore is incomplete; as a result, Applicant is unable to determine the Office's position regarding the allowability of claims 41-42 at this time. Because of this uncertainty regarding claims 41-42, Applicant hereby requests that the status of claims 41-42 be communicated to the Applicant in a Non-Final / Final Action, or, a Notice of Allowability in a subsequent communication from the Office.

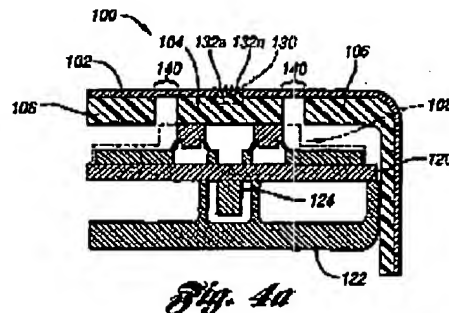
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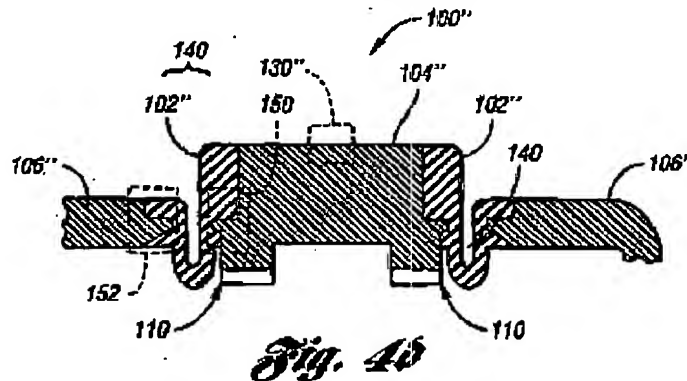
III. U.S. 6,737,596 to Hein

Prior to discussing the rejections of the claimed invention, Applicant provides the following summary of the primary reference relied upon by the Office to reject the claimed invention, which is U.S. 6,737,596 to Hein ("Hein").

At Figure 4A, Hein discloses an apparatus (100) including a cover (102), a button (104) and a bezel (106). The button (104) and bezel (106) are formed from the same material and define a gap (140) therebetween. The cover (102) extends across an upper surface of and commonly connects the button (104) and bezel (106) while functionally preventing debris from entering the gap (140).



In another embodiment, at Figure 4D (which was directly relied upon by the Office to reject the claimed invention), Hein discloses an apparatus (100''). The apparatus (100'') includes a cover (102'') that does not extend entirely across the upper surface of the button (104'') and bezel (106'') as in Figure 4A, but, rather, extends into and fills the gap (140).



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IV. Figure 4 - An Embodiment of the Present Invention

Prior to discussing the rejections of the claimed invention, Applicant provides the following remarks regarding Figure 4 of an embodiment of the disclosed invention.

At Figure 4, a bezel and switch component (10) includes a switch pad portion (18) bonded to an opening of a rigid core portion (14). A cover (20) is applied over at least a portion of the switch pad portion (18) and a foam layer (24) is dispensed between the cover (20) and the rigid core portion (14).

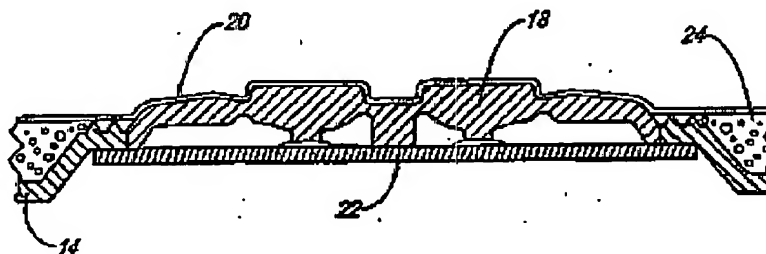


FIG. 4

III. Rejections Under 35 USC § 103

Claims 20-21, 23, 25-35, 37 and 40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hein in view U.S. 5,448,028 to Filion et al ("Filion"). In view of the following remarks, the rejection is respectfully traversed.

Regarding Independent Claim 20

Applicant has amended independent claim 20 to include the steps of "*applying a cover over at least a portion of the switch pad portion; and dispensing a foam layer between said cover and said rigid core portion,*" which were gleaned from now-cancelled dependent claims 33 and 37. Applicant submits that any permissible combination of Hein and Filion would not render a positive teaching of the claimed invention and sets forth the following remarks that supports Applicant's position.

Firstly, Applicant notes that the only remarks regarding a positive rejection of claims 33 and 37 can be found, as follows, at page 2 of the present, Final Action:

In regard to claims 21, 25, 32, 33, and 37, such are taught by the above combination of Hein and Filion et al.

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As seen above, Applicant notes that a specific, *detailed insight* as to which of Hein or Filion includes the claimed structural limitations of the cover and foam layer are not set forth by the Office. Accordingly, to an independent observer, the above remark is a mere conclusory statement that leaves the reader of the present Action and file wrapper with no specific understanding of how Hein and Filion are permissibly-combined in order to arrive at the claimed invention as suggested by the Office other than to say "such are taught by the above combination." For at least this reason alone, Applicant submits that the rejection is not supported and should be withdrawn or clarified in a subsequent communication.

Further, Applicant notes that because Hein's cover (102'') bridges the gap (140) and does not extend entirely across the upper surface of the button (104'') and bezel (106''), Hein's cover (102'') would not be able to be applied over at least a portion of a switch pad portion and a foam layer that is dispensed between the cover and a rigid core portion, as recited by the claimed invention. However, if such a teaching is found in one or more of Hein and Filion, Applicant requests that such a teaching be expressly communicated in a subsequent Action.

Regarding Independent Claim 41

As stated above, independent claim 41 has not been mentioned or positively rejected in the present Action. Because of this, Applicant submits that claim 41 is in allowable form.

The remaining claims are in dependent form and depend directly or indirectly from non-obvious independent claims 20 and 41. Applicant directs the Office's attention to M.P.E.P. §2143.03, 8th Ed., Rev. 6 (September, 2007), which states the following:

**2143.03 All Claim Limitations Must Be
>Considered< [R-6]

**** "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).**

Therefore, the remaining dependent claims are also non-obvious and therefore, allowable.

In view of the above remarks, Applicant requests withdrawal of the rejection to claims 20-21, 23, 25-32, 34-35 and 40-42. Allowance of claims 20-21, 23, 25-32, 34-35 and 40-42 is therefore solicited.

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Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-3145, under Order No. 225300-86427 from which the undersigned is authorized to draw.

Dated: 1/12/10

Respectfully submitted,

By 

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